

Meeting Date: 2/3/2015

Report Type: Consent

Report ID: 2015-00002

Title: (Pass for Publication) The Creamery Community Facilities District No. 2014-08; Mailed Ballot Election Results and Ordinance to Levy Tax

Location: District 4

Recommendation: 1) Pass a Resolution determining the results of the special mailed-ballot election; 2) review an Ordinance levying a special tax solely within and relating to The Creamery Community Facilities District No. 2014-08; and 3) pass for publication the ordinance title as required by City Charter Section 32(c), with the ordinance to be adopted on February 10, 2015.

Contact: Diane Morrison, Program Specialist, (916) 808-7535; Mark Griffin, Program Manager, (916) 808-8788, Department of Finance

Presenter: None

Department: Finance

Division: Public Improvement Finance

Dept ID: 06001321

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Schedule of Proceedings
- 4-Resolution
- 5-Ordinance

City Attorney Review

Approved as to Form
Michael W. Voss
1/22/2015 9:28:07 AM

Approvals/Acknowledgements

Department Director or Designee: Leyne Milstein - 1/15/2015 5:19:51 PM

Description/Analysis

Issue: Under the conditions of approval for The Creamery Development Project (Project), the property owner initiated proceedings to create a community facilities district that will fund the maintenance of public improvements. Establishing The Creamery Community Facilities District No. 2014-08 (District) will satisfy the conditions by authorizing the City to levy special taxes in an amount sufficient to provide funding for maintenance and repair of landscaped areas within public rights-of-way that are above the City standard and maintenance and repair of landscaping and amenities for the open space reserved as a future connection of the 10th street corridor.

On December 16, 2014, the City Council passed a resolution of intention to form the District. On January 20, 2015, the City Council passed a resolution to conduct a special mailed-ballot election with regard to formation of the District. The results of the election are detailed in the attached resolution.

Policy Considerations: The recommended action is consistent with City policy to implement special levy districts to fund the maintenance and repair of the amenities, facilities, and improvements within the Project that exceed City standards.

Environmental Considerations: Under California Environmental Quality Act guidelines, formation of a district and continuing administrative activities do not constitute a project and are therefore exempt from review.

Rationale for Recommendation: The recommended actions in the attached Resolution are required by the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311-53368.3) for the formation of a new district.

Financial Considerations: The property owners will pay all costs associated with the District. The maximum special tax for each parcel shall be the amounts shown below for Fiscal Year (FY) 2015-16.

Developed Parcels	
Single Family Residential Units	\$ 331 per dwelling unit
Condominium Units	\$ 331 per dwelling unit
Multifamily Residential Units	\$ 331 per dwelling unit
Mixed Use Residential Units	\$ 331 per dwelling unit
Final Use Parcels	\$4,670 per acre
Undeveloped Parcels	\$4,670 per acre

A detailed explanation of the proposed special tax is in the Rate and Method of Apportionment, which is attached to the resolutions. No tax will be levied in FY 2014-15. The formation process sets the base rates, which are the amounts shown above. These base amounts can increase by the annual change in the Consumer Price Index, but by no more than four percent. An actual levy is anticipated for FY 2015-16.

Local Business Enterprise (LBE): Not applicable.

Background

The Project consists of 17 lots totaling approximately 8.31 gross acres located within the Alkali Flats neighborhood of the City of Sacramento, County of Sacramento. The project site was the former Crystal Creamery production site. The north block of the project site is generally bounded by D and 10th Streets, Television Circle, and the railroad. The south block is generally bounded by D, E, 10th and 11th Streets. A map of the project is included as Exhibit A to the Resolution.

On October 28, 2008, Council approved entitlements to allow for development of 217 residential units and 121,836 square feet of commercial space (Ordinance 2008-051, Resolutions 2008-704 through 707). All but one of the structures approved for demolition was demolished before work on the project stopped in late 2008. The approved project was not constructed and the site has remained vacant. The new owner, Lewis Land Developers, went to the Planning and Design Commission on May 29, 2014 and received approval for a new project.

The new project proposes to develop approximately 7.5 net acres. The Project has reserved an area for a future connection of 10th Street through the site, although the timing for the construction is not expected to occur in the near future.

The tentative map will create 117 single family lots and 10 common lots, with an overall density of 15.6 dwelling units per acre. The project is comprised of four models with a total of twelve variations. The purpose of the common lots would be to allow private vehicular drives throughout the development and to provide landscaped paseos. The common areas will be maintained by a Homeowner's Association.

SCHEDULE OF PROCEEDINGS

THE CREAMERY COMMUNITY FACILITIES DISTRICT (CFD) NO. 2014-08

Nov. 20, 2014	City Clerk certification of registered voters
Dec. 08, 2014	100% Consent Waivers due to City
Dec. 16, 2014	City Council <ul style="list-style-type: none">o Adopt Resolution of Intention (sets hearing date)
Dec. 17, 2014	Mail Notice of Hearing and Record Boundary Map
Jan. 09, 2015	City Clerk publish Notice of Public Hearing
Jan. 20, 2015	City Council <ul style="list-style-type: none">o Conduct Public Hearingo Approve Resolution of Formationo Approve Resolution Calling Special Election
Jan. 21, 2015	Mail Ballots
Jan. 26, 2015	Ballots Due
Feb. 03, 2015	City Council <ul style="list-style-type: none">o Adopt Resolution Declaring Results of Special Electiono Pass for Publication Ordinance to Levy Tax
Feb. 04, 2015	Record Notice of Special Tax
Feb. 10, 2015	City Council <ul style="list-style-type: none">o Adopt Ordinance to Levy Special Tax

RESOLUTION NO.

Adopted by the Sacramento City Council

**DETERMINING THE RESULT OF THE SPECIAL
MAILED-BALLOT ELECTION HELD ON JANUARY 26, 2015, WITHIN
THE CREAMERY COMMUNITY
FACILITIES DISTRICT NO. 2014-08**

BACKGROUND:

- A.** The City Clerk has duly canvassed the votes cast by the qualified electors within The Creamery Community Facilities District No. 2014-08 (the “**District**”) at the special mailed-ballot election held within the District on January 26, 2015, upon the proposition set forth below.
- B.** The City Clerk has certified to the City Council the result of the votes cast at the special mailed-ballot election upon the proposition, and the certification is now on file in the City Clerk's office.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1 The statements in paragraphs A and B of the Background are accurate.

Section 2 At the special mailed-ballot election, the following proposition was submitted to the qualified electors of the District:

Shall the City of Sacramento The Creamery Community Facilities District No. 2014-08 (“the CFD”) be authorized to finance the maintenance and repair of landscaped areas within public rights-of-way that are above the City standard and maintenance and repair of landscaping and amenities for the open space reserved as a future connection of 10th street corridor in The Creamery Development Project, as more fully described in Resolution No. 2014-0409 adopted by the City Council on December 16, 2014, and incorporated herein by reference; and shall an appropriations limit in the amount of \$38,764 per fiscal year in connection therewith be established for the CFD; and shall a special tax with a maximum rate and method of apportionment as provided in Resolution No. 2014-0409 be levied to pay for maintenance services?

Section 3 The canvass of the votes cast at the special mailed-ballot election held in the District on January 26, 2015, as shown by the City Clerk's certification, is approved and confirmed.

Section 4 The total number of votes cast for and against the proposition at the special mailed-ballot election in the District, as set forth in the canvass, is as follows:

Total Votes: 10 Votes For: 10 Votes Against: 0

Section 5 More than two-thirds of all votes cast at the special mailed-ballot election were cast in favor of the proposition, and the proposition carried.

Section 6 The City Clerk is directed to enter this resolution on the minutes of the City Council, and that entry will constitute the official declaration of the result of the special mailed-ballot election. The City Clerk is further authorized and directed to record a notice of special-tax lien in accordance with Streets and Highways Code section 3114.5.

Section 7 Exhibit A is part of this resolution.

Table of Contents:

Exhibit A: Boundary Map

ORDINANCE NO.

Adopted by the Sacramento City Council

LEVYING A SPECIAL TAX FOR THE PROPERTY-TAX YEAR 2015-2016 AND FOLLOWING TAX YEARS SOLELY WITHIN AND RELATING TO THE CREAMERY COMMUNITY FACILITIES DISTRICT NO. 2014-08 FOR THE MAINTENANCE OF AREAS IN AND AROUND THE CREAMERY DEVELOPMENT PROJECT

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. On January 20, 2015, the City Council adopted Resolution No. 2015-0016 (the "**Resolution**"), thereby establishing The Creamery Community Facilities District No. 2014-08 (the "District").
2. In accordance with section 53328 and 53340 of the California Government Code (the "**Code**") and the Rate and Method of Apportionment of Special Tax attached as Exhibit B to the Resolution (the "**RMA**"), a special tax is hereby levied on all taxable parcels within the District for the 2015-2016 tax year and for all subsequent years in the amount of the maximum authorized tax. This amount may be adjusted annually by resolution of the City Council, subject to the maximum authorized special tax limit.
3. The Manager of the Public Improvement Finance Division of the Finance Department or his or her designee (the "**Manager**"), with the aid of the appropriate officers and agents of the City and without further action by the City Council is authorized and directed (a) to calculate the Special Tax Requirement (as required in section 5 of the RMA) each year; (b) to prepare the annual special-tax roll in the amount of the Special Tax Requirement in accordance with the RMA; and (c) to provide to the Sacramento County Auditor-Controller all information in proper form, and in proper time, that is necessary and appropriate to effect the correct and timely billing and collection of the special tax on the secured property-tax roll of Sacramento County (the "**County**"). As provided in section 53340 of the Code and in the RMA, the special tax is to be collected in the same manner and at the same time as ad valorem taxes.
4. The appropriate officers and agents of the City are authorized to make adjustments to the special-tax roll before the final posting of the special taxes to the County tax roll each year, as may be necessary to achieve a correct match of the special tax levy with the assessor's parcel numbers used by the County in sending out property-tax bills. The County may deduct its reasonable and agreed charges for collecting the special tax from the amounts collected, before remitting the special tax collections to the City.
5. Any taxpayer may contest the levy of the special tax by filing a written notice of appeal in accordance with section 7 of the RMA, which is supplemented as follows:
 - a. The Manager shall serve as the CFD Administrator for purposes of section 7 of the RMA.

- b. A taxpayer may file a notice of appeal with the Manager not more than two years after the end of the tax year for which the taxpayer is contesting the levy, and the taxpayer's failure to do so within that time constitutes a bar to appeal. The notice of appeal must specify in detail the grounds of the appeal, which are limited to (1) clerical errors in assigning an amount of tax to a parcel and (2) an error in defining the use of a parcel or its classification. No other appeals are allowed.
 - c. Not more than 30 days after an appeal is filed, the Manager shall review the appeal, meet with the taxpayer (if necessary), and mail the taxpayer a written decision on the appeal. If the Manager finds that the special tax should be modified, then the Manager shall correct the special-tax levy or grant the taxpayer a credit against the next year's special-tax levy, as appropriate under the circumstances. The Manager's failure to timely mail a written decision will constitute a decision denying the appeal.
 - d. If the taxpayer disagrees with the Manager's decision, and if the taxpayer is current on payments of the special tax, then the taxpayer may appeal to the City Council by filing a written notice of appeal with the City Clerk not more than 30 days after the Manager mails the notice of decision or has failed to timely mail a written decision, and the taxpayer's failure to do so constitutes a bar to further appeal. The notice of appeal must specify in detail the grounds of appeal. The City Council shall, in accordance with chapter 1.24 of the City Code, either hear the appeal itself or refer the appeal to a hearing officer. The hearing on the appeal from the Manager's decision is to be conducted not more than 30 days after the taxpayer files the appeal with the City Council, and the City Council or the hearing officer, as appropriate, shall mail a written decision to the taxpayer not more than 30 days after the hearing concludes. The decision of the City Council or the hearing officer will be final for all purposes. The failure of the City Council or the hearing officer to hear the appeal or to render a decision within the specified time will constitute a denial of the appeal.
6. The filing of an appeal under section 7 will not relieve the taxpayer of the obligation to pay the special tax when due.
7. If for any reason a court with jurisdiction finds any portion of this ordinance to be invalid or finds the special tax to be inapplicable to any particular parcel, then the balance of this ordinance and the application of the special tax to the remaining parcels will not be affected.
8. In accordance with section 32(c) of the City Charter, after the City Council has passed this ordinance for publication the City Clerk shall have the title of this ordinance, and only the title, published at least once in a newspaper of general circulation that is published in the City and designated by the City Council as the official newspaper of the City, with the publication to occur at least three days before the City Council adopts this ordinance.